COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

D.T.E. 03-74

REQUEST: Department of Telecommunications and Energy Requests Teleport Communications Boston.

DATE: September 8, 2003

DTE-TCG 1-1: Does Teleport claim that its Customer Transfer Charges ("CTCs") are reasonable, just, and in compliance with G.L. c.159, §17 because they are cost-based? Does Teleport claim that its CTCs are reasonable, just, and in compliance with G.L. c.159, §17 because they are proxy-based (i.e., the CTC use a Verizon rate as a proxy)? If yes to both questions, please explain how these charges can be both cost-based and proxy-based.

Respondent: Counsel

RESPONSE: Teleport believes the tariffed CTC rate is just and reasonable under G.L. c.159, §17, because the rate is both cost based and proxy based. Teleport has always believed that the rate can be cost justified under the statute, because the rate of $18.90 is only a tiny fraction of Teleport's costs, which are approximately $130.00, in a non-dispatch situation. See response to DTE-TCG 1-2. Additionally, the CTC rate is justifiable as a reasonable proxy-based rate. Although the current rate of $18.90 is slightly higher than the Verizon hot cut rate of $15.26 that existed at the time the CTC was filed, Teleport's CTC rate is below Verizon's currently applicable hot cut rate. Furthermore, since the Department has made Verizon's currently applicable hot cut rate retroactive to August 5, 2002, Teleport's CTC has always been lower than Verizon's hot cut rate.

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DTE-TCG 1-2: Please submit cost studies to support the CTCs that appear in Teleport's Tariff No. 1. Such cost studies should include, at a minimum, all tasks associated with CTCs as well as the relevant work times and labor costs.

Respondent: John McAuliffe

RESPONSE: In the attached cost study, Teleport identifies the tasks that are involved the number of minutes required for each. Teleport uses an average cost per minute of 95.4 cents, based on a fully loaded average annual cost of a worker of $110,000, which includes not only salary and benefits, but also office space, computer support, and administrative support. The cost subtotals are set out at the bottom of the attached study. The first three categories are additive, producing a total cost per transfer of $129.66. The fourth category of costs is incurred only if a dispatch is required. In such instances, the fourth category should be added to the other three to obtain a total cost for the transfer.

Unlike Verizon, Teleport currently uses a completely manual process for effectuating the transfer of customer service and loop facilities to other carriers. To date, the volume of such transfers is miniscule compared to the volumes processed by the ILECs. The low volumes experienced by Teleport to date do not justify the capital necessary to develop and implement an automated, computerized process that can cost-effectively handle customer service and loop facility transfers.

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DTE-TCG 1-3: Under what costing methodology should the Department evaluate Teleport's CTCs? Why?

Respondent: Counsel

RESPONSE: Teleport believes that its prices are cost justified because its prices are so far below its actual costs. To the extent that cost justification is required, Teleport believes that the appropriate measure is actual costs, measured as Total Service Long Run Incremental Costs. These are the costs that Teleport actually incurs.

Actual costs as defined above is the appropriate measure, because Teleport is a nondominant carrier. The Department has consistently reiterated its commitment to the dominant/nondominant approach to regulation that it established in 1985 in its *IntraLATA Competition Order*, DPU 1731. While the Department (pursuant to federal authority) has required Verizon, as the dominant local exchange provider in Massachusetts, to establish the rates of services and elements provided to other carriers on the basis of forward looking TELRIC costs, it has never required a nondominant carrier to set its prices on that basis. Indeed, it would make little sense to require a nondominant carrier to set its prices at forward looking TELRIC rates, because forward looking TELRIC rates are established on the assumption that the carrier offers services on the scale and scope of an incumbent local exchange carrier serving the entire market. Such scale and scope warrant the implementation of computerized systems with very low fallout rates. A nondominant carrier cannot, by definition, ever achieve such volume levels, and as a result must operate without such automated systems. It is inappropriate to require a nondominant carrier to price its services as if its volumes could justify the automated systems of the ILEC.

That said, it should be noted that as long as a nondominant carrier uses a proxy based justification, it is – as a practical matter – basing its pricing on TELRIC, at least in the vast majority of cases when the incumbent's price is required to be TELRIC based. (If the incumbent's price is not required to be TELRIC based, there is no reason to require a nondominant carrier's price to be TELRIC based.)

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DTE-TCG 1-4: Does Teleport have a wholesale tariff on file with the Massachusetts DTE? Is Teleport's Tariff No. 1 a wholesale or a retail tariff? Are Teleport's CTCs a wholesale or a retail offering?

Respondent: Counsel

RESPONSE: Teleport has one tariff on file at the DTE, pursuant to which all of its services are offered. It is denoted neither as a retail nor as a wholesale tariff. When another carrier sends a Local Service Request (LSR) to Teleport and requests certain services from Teleport involving the coordinated transfer of an end-user's service and loop facility to such carrier, those services are offered to the requesting carrier pursuant to Teleport's Tariff No. 1. Accordingly, it is the requesting carrier that is charged the CTC.

In its July 8, 2003 Complaint, Verizon tried to argue that Teleport's Tariff No. 1 is a retail tariff, but it found nothing in the tariff stating that the tariff was a retail tariff. Indeed, Verizon's argument in its Complaint supports Teleport's view that the CTC, as a charge for a service that is offered to Verizon *at Verizon's request*, is entirely consistent with the Tariff provisions. The Tariff defines the customer as "[t]he person, firm or corporation *which orders service* and is responsible for the pay or charges and compliance with the Company's regulation." (Emphasis added.) It is Verizon that is ordering the customer transfer service pursuant to the Tariff when it sends to Teleport an LSR and it is, therefore, Verizon that should pay for it pursuant to the terms of the

Tariff.

Verizon also tried to argue that Teleport's Tariff No. 1 is not an appropriate place to set forth the service and its charges, because the customer transfer services (which Verizon requires in order to provide uninterrupted telecommunications services to an end-user transferred from TCG) "are not particularly germane to the subject matter of the [tariff]. The subject matter of the tariff relates to "[t]he furnishing of telecommunications services to business (non-residential) customers in connection with . . . information transmission[.]" Since Verizon is a business customer requiring the CTC service to provide telecommunications services, it is hard to understand how this service is not "germane to the subject matter of the [tariff].